

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF:	)	
	)	
Cinergy Corporation	)	FINDING OF VIOLATION
Cincinnati Gas & Electric	)	
Co.	)	EPA-5-00-OH-20
W.C. Beckjord Station	)	
New Richmond, Ohio	)	
	)	
	)	
Proceedings Pursuant to	)	
the Clean Air Act,		
42 U.S.C. §§ 7401 <u>et seq.</u>		

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**Finding of Violation**

The United States Environmental Protection Agency (U.S. EPA) finds that Cinergy Corporation (Cinergy) and the Cincinnati Gas & Electric Company (CG&E) violated an Administrative Order issued pursuant to Sections 113(a)(1)(A) and 114(a)(1) of the Clean Air Act, 42 U.S.C. §§ 7413(a)(1)(A) and 7414(a)(1), as follows:

**Regulatory Authority**

1. On May 27, 1994, U.S. EPA approved the Ohio Administrative Code ("OAC") Rule 3745-17-10 as part of the federally enforceable SIP for Ohio. 59 Fed. Reg. 27464.
2. OAC Rule 3745-17-10 limits the emission of particulate matter from fuel burning equipment at any plant with a total heat input capacity greater than 1,000 mmBTU/hr to 0.10 pounds of particulate matter per million BTU heat input (lb/mmBTU).

**Factual Background**

3. Cinergy Corporation purchased CG&E on October 24, 1994.
4. Cinergy and CG&E own and/or operate a coal-fired generating unit designated as unit 1 located at the W.C. Beckjord Station, 757 US Route 52, New Richmond, Ohio 45157.

5. Emissions from unit 1 are subject to the particulate matter limits set forth at OAC Rule 3745-17-10.
6. OAC Rule 3745-17-10 is part of the Ohio SIP, and therefore is federally enforceable under Section 113 of the Act.
7. Pursuant to Section 113(a)(1) of the Act, U.S. EPA issued a Notice of Violation to Cinergy on June 26, 1996, alleging violations of OAC Rule 3745-17-10 and opacity limitations at W.C. Beckjord Station's, unit 1.
8. Pursuant to Section 113(a)(1) of the Act, U.S. EPA issued a Notice of Violation to Cinergy on July 18, 1997, alleging violations of OAC Rule 3745-17-10 at W.C. Beckjord Station's unit 1 and unit 4.
9. Pursuant to Section 113(d) of the Act, U.S. EPA issued an Administrative Penalty Order to Cinergy on September 22, 1997, for \$77,000 to resolve violations alleged in the Notices of Violation issued June 26, 1996 and July 18, 1997.
10. Pursuant to Section 113(a)(1)(A) of the Act, U.S. EPA issued an Administrative Consent Order (the "Administrative Order") to Cinergy on February 26, 1998. The Administrative Order, signed by a representative of Cinergy, established a three year compliance monitoring program for unit 1.
11. Among other things, the Administrative Order required Cinergy to:
  - A. Conduct semi-annual stack testing, from years 1998 through 2000, at Cinergy's W.C. Beckjord Station's unit 1 and unit 4 to assess compliance with applicable particulate emission limits, and
  - B. Maintain continuous compliance with OAC Rule 3745-17-10 at Cinergy's W.C. Beckjord Station's unit 1 and unit 4.
12. On October 12, 1999, a semi-annual stack test for particulate matter was conducted at Cinergy's and CG&E's, W.C. Beckjord Station, unit 1, as required by the Administrative Order. Stack test results show particulate emissions from unit 1 were 0.49 lb/mmBTU.
13. Pursuant to Section 113(a)(3) of the Act, U.S. EPA issued a

Finding of Violation to Cinergy on December 1, 1999, alleging violation of the Administrative Consent Order issued February 26, 1998.

14. On May 4, 2000, a semi-annual stack test for particulate matter was conducted at Cinergy's and CG&E's, W.C. Beckjord Station, unit 1, as required by the Administrative Order. Stack test results showed particulate emissions from unit 1 were 0.13 lb/mmBTU.
15. On May 26, 2000, a repeat stack test for particulate matter was conducted at Cinergy's and CG&E's, W.C. Beckjord Station, unit 1. Stack test results showed particulate emissions from unit 1 were 0.16 lb/mmBTU.

#### Findings of Violation

16. The stack test results in paragraphs 14 and 15 showed particulate emissions which exceeded the allowable emission limit of 0.10 lb/mmBTU, established at OAC Rule 3745-17-10.
17. By exceeding the allowable particulate emission limitation at OAC Rule 3745-17-10, Cinergy's and CG&E's, W.C. Beckjord Station, unit 1 failed to maintain continuous compliance with OAC Rule 3745-17-10.
18. Failure to maintain continuous compliance with OAC Rule 3745-17-10 is a violation of Paragraph 11 of the Administrative Order issued February 26, 1998.

6-22-00

Date



Bharat Mathur, Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

I, Betty J. Williams, certify that I sent a Notice of Violation and Finding of Violation, issued pursuant to the Clean Air Act, by Certified Mail, Return Receipt Requested, to:

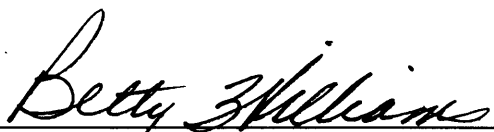
Jack Randolph, CEO  
139 E. Fourth Street  
Cincinnati, Ohio 45201-0960

I also certify that I sent copies of the Notice of Violation and Finding of Violation by first class mail to:

Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. 1049  
Columbus, Ohio 43216-1049

Cory Chadwick, Director  
Dept. of Environmental Services  
Air Quality Programs  
250 William Howard Taft Road  
Cincinnati, Ohio 45219-2660

on the 23rd day of June, 2000.

  
Betty J. Williams, Secretary  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 2199026 411